

Small Business Notes

In this issue:

- **U.S. Equal Employment Opportunity Commission (EEOC) Offers Guidance to Employers on COVID-19 Testing in the Workplace**

U.S. Equal Employment Opportunity Commission (EEOC) Offers Guidance to Employers on COVID-19 Testing in the Workplace

On April 23rd the EEOC issued an update to its guidance to employers on the relationship of anti-discrimination laws to employer actions in response to the COVID-19 virus. The substantive parts of that guidance were:

- An employee with the COVID-19 virus poses a direct threat to the health of others in the workplace.
- An employer's testing of an employee for the Covid-19 virus is job related and necessary in the present pandemic circumstances.
- Any test administered must be "accurate and reliable."
- In determining the accuracy and reliability of any COVID-19 test, employers should follow the guidance of the Food and Drug Administration (FDA), the Center for Disease Control (CDC), and other public health authorities.
- An employer should remain mindful that a COVID-19 test determines whether the person tested currently has the virus not whether the person may get the virus at a later time.
- In addition to testing, employers should be certain to implement infection control procedures such as hand washing, social distancing, wearing of face masks, use of sanitizers on hands and work surfaces.

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